

Subpart G—Records and Reports

§ 55.121 General.

(a)(1) Licensees and permittees shall keep records pertaining to explosive materials in permanent form (i.e., commercial invoices, record books) and in the manner required in this subpart.

(2) Licensees and permittees shall keep records required by this subpart on the business premises for five years from the date a transaction occurs or until discontinuance of business or operations by the licensee or permittee. (See also § 55.128 for discontinuance of business or operations.)

(b) ATF officers may enter the premises of any licensee or permittee for the purpose of examining or inspecting any record or document required by or obtained under this part (see § 55.24). Section 843(f) of the Act requires licensees and permittees to make all required records available for examination or inspection at all reasonable times. Section 834(f) of the Act also requires licensees and permittees to submit all reports and information relating to all required records and their contents, as the regulations in this part prescribe.

(c) Each licensee and permittee shall maintain all records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of explosive materials as the regulations in this part prescribe. Sections 842(f) and 842(g) of the Act make it unlawful for any licensee or permittee knowingly to make any false entry in, or fail to make entry in, any record required to be kept under the Act and the regulations in this part.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-172, 49 FR 14941, April 16, 1984]

§ 55.122 Records maintained by licensed importers.

(a) Each licensed importer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed importer shall take a special inventory

(1) at the time of commencing business, which is the effective date of the license issued upon original qualification under this part;

(2) at the time of changing the location of his business to another region;

(3) at the time of discontinuing business; and

(4) at any time the regional director (compliance) may in writing require.

Each special inventory is to be prepared in duplicate, the original of which is submitted to the

regional director (compliance), and the duplicate retained by the licensed importer. If a special inventory specified by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the regional director (compliance). (See also § 55.127.)

(b) Each licensed importer shall, not later than the close of the next business day following the date of importation or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of importation or other acquisition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(c) Each licensed importer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer and country of manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) The regional director (compliance) may authorize alternate records to be maintained by a licensed importer to record his distribution of explosive materials when it is shown by the licensed importer that alternate records will accurately and

readily disclose the information required by paragraph (c) of this section. A licensed importer who proposes to use alternate records shall submit a letter application to the regional director (compliance) and shall describe the proposed alternate records and the need for them. Alternate records are not to be employed by the licensed importer until approval is received from the regional director (compliance).

(e) Each licensed importer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or nonpermittees. These records are maintained as prescribed by § 55.126.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-172, 49 FR 14941, Apr. 16, 1984; T.D. ATF-293, 55 FR 3721, Feb. 5, 1990; T.D. ATF-400, 63 FR 44999, 45003, Aug. 24, 1998]

§ 55.123 Records maintained by licensed manufacturers

(a) Each licensed manufacturer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed manufacturer shall take a special inventory

(1) at the time of commencing business, which is the effective date of the license issued upon original qualification under this part;

(2) at the time of changing the location of his premises to another region;

(3) at the time of discontinuing business; and

(4) at any other time the regional director (compliance) may in writing require.

Each special inventory is to be prepared in duplicate, the original of which is submitted to the regional director (compliance), and the duplicate retained by the licensed manufacturer. If a special inventory required by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the regional director (compliance). (See also § 55.127.)

(b) Each licensed manufacturer shall not later than the close of the next business day following the date of manufacture or other acquisition of explosive materials, enter the following information in a separate record:

(1) Date of manufacture or other acquisition.

(2) Manufacturer's marks of identification.

(3) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(4) Name, brand name or description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(c) Each licensed manufacturer shall, not later than the close of the next business day following the date of distribution of any explosive materials to another licensee or a permittee, enter in a separate record the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer or name of importer, as applicable, if acquired other than by his own manufacture.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) Each licensed manufacturer who manufactures explosive materials for his own use shall, not later than the close of the next business day following the date of use, enter in a separate record the following information:

(1) Date of use.

(2) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of special fireworks, etc.).

(3) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

Exception: A licensed manufacturer is exempt from the recordkeeping requirements of this subsection if the explosive materials are manufactured for his own use and used within a 24 hour period at the same site.

(e) The regional director (compliance) may authorize alternate records to be maintained by a licensed manufacturer to record his distribution or use of explosive materials when it is shown by the licensed manufacturer that alternate records will accurately and readily disclose the information required by paragraph (c) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application to the regional director (compliance) and shall describe the proposed alternate records and the need for them.

Alternate records are not to be employed by the licensed manufacturer until approval is received from the regional director (compliance).

(f) Each licensed manufacturer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or nonpermittees. These records are maintained as prescribed by § 55.126.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-172, 49 FR 14941, Apr. 16, 1984; T.D. ATF-293, 55 FR 3721, Feb. 5, 1990; T.D. ATF-400, 63 FR 44999, 45003, Aug. 24, 1998]

§ 55.124 Records maintained by licensed dealers.

(a) Each licensed dealer shall take true and accurate physical inventories which will include all explosive materials on hand required to be accounted for in the records kept under this part. The licensed dealer shall take a special inventory

(1) at the time of commencing business, which is the effective date of the license issued upon original qualification under this part;

(2) at the time of changing the location of his premises to another region;

(3) at the time of discontinuing business; and

(4) at any other time the regional director (compliance) may in writing require.

Each special inventory is to be prepared in duplicate, the original of which is submitted to the regional director (compliance), and the duplicate retained by the licensed dealer. If a special inventory required by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, at least one physical inventory will be taken. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the regional director (compliance). (See also § 55.127.)

(b) Each licensed dealer shall, not later than the close of the next business day following the date of purchase or other acquisition of explosive materials (except as provided in paragraph (d) of this section), enter the following information in a separate record:

(1) Date of acquisition.

(2) Name or brand name of manufacturer and name of importer (if any).

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.)

and size (length and diameter or diameter only of display fireworks).

(6) Name, address, and license or permit number of the person from whom the explosive materials are received.

(c) Each licensed dealer shall, not later than the close of the next business day following the date of use (if the explosives are used by the dealer) or the date of distribution of any explosive materials to another licensee or a permittee (except as provided in paragraph (d) of this section), enter in a separate record the following information:

(1) Date of disposition.

(2) Name or brand name of manufacturer and name of importer (if any).

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), etc.) and size (length and diameter or diameter only of display fireworks).

(6) License or permit number of licensee or permittee to whom the explosive materials are distributed.

(d) When a commercial record is kept by a licensed dealer showing the purchase or other acquisition information required for the permanent record prescribed by paragraph (b) of this section, or showing the distribution information required for the permanent record prescribed by paragraph (c) of this section, the licensed dealer acquiring or distributing the explosive materials may, for a period not exceeding seven days following the date of acquisition or distribution of the explosive materials, delay making the required entry into the permanent record of acquisition or distribution. However, until the required entry of acquisition or disposition is made in the permanent record, the commercial record must be

(1) kept by the licensed dealer separate from other commercial documents kept by the licensee, and

(2) readily available for inspection on the licensed premises.

(e) The regional director (compliance) may authorize alternate records to be maintained by a licensed dealer to record his acquisition or disposition of explosive materials, when it is shown by the licensed dealer that alternate records will accurately and readily disclose the required information. A licensed dealer who proposes to use alternate records shall submit a letter application to the regional director (compliance) and shall describe the proposed alternate records and the need for

them. Alternate records are not to be employed by the licensed dealer until approval is received from the regional director (compliance).

(f) Each licensed dealer shall maintain separate records of the sales or other distribution made of explosive materials to nonlicensees or nonpermittees. These records are maintained as prescribed by § 55.126.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-172, 49 FR 14941, Apr. 16, 1984; T.D. ATF-293, 55 FR 3721, Feb. 5, 1990; T.D. ATF-400, 63 FR 44999, 45003, Aug. 24, 1998]

§ 55.125 Records maintained by permittees.

(a) Each permittee shall take true and accurate physical inventories which shall include all explosive materials on hand required to be accounted for in the records kept under this part. The permittee shall take a special inventory

(1) at the time of commencing business, which is the effective date of the permit issued upon original qualification under this part;

(2) at the time of changing the location of his premises to another region;

(3) at the time of discontinuing business; and

(4) at any other time the regional director (compliance) may in writing require. Each special inventory is to be prepared in duplicate, the original of which is submitted to the regional director (compliance) and the duplicate retained by the permittee. If a special inventory required by paragraphs (a) (1) through (4) of this section has not been taken during the calendar year, a permittee is required to take at least one physical inventory. However, the record of the yearly inventory, other than a special inventory required by paragraphs (a) (1) through (4) of this section, will remain on file for inspection instead of being sent to the regional director (compliance). (See also § 55.127).

(b) Each permittee shall, not later than the close of the next business day following the date of acquisition of explosive materials, enter the following information in a separate record:

(1) Date of acquisition.

(2) Name or brand name of manufacturer.

(3) Manufacturer's marks of identification.

(4) Quantity (applicable quantity units, such as pounds of explosives, number of detonators, number of display fireworks, etc.).

(5) Description (dynamite (dyn), blasting agents (ba), detonators (det), display fireworks (df), (etc.) and size (length and diameter or diameter only of display fireworks)).

(6) Name, address, and license number of the persons from whom the explosive materials are received.

(c) Each permittee shall, not later than the close of the next business day following the date of disposition of surplus explosive materials to another permittee or a licensee, enter in a separate record the information prescribed in § 55.124(c).

(d) Each permittee shall maintain separate records of disposition of surplus stocks of explosive materials to nonlicensees or nonpermittees as prescribed in § 55.126.

(e) The regional director (compliance) may authorize alternate records to be maintained by a permittee to record his acquisition of explosive materials, when it is shown by the permittee that alternate records will accurately and readily disclose the required information. A permittee who proposes to use alternate records shall submit a letter application to the regional director (compliance) and shall describe the proposed alternate records and the need for them. Alternate records are not to be employed by the permittee until approval is received from the regional director (compliance).

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-172, 49 FR 14941, Apr. 16, 1984; T.D. ATF-293, 55 FR 3722, Feb. 5, 1990; T.D. ATF-400, 63 FR 44999, 45003, Aug. 24, 1998]

§ 55.126 Explosives transaction record.

(a) A licensee or permittee shall not temporarily or permanently distribute explosive materials to any person, other than another licensee or permittee, unless he records the transaction on an explosives transaction record, ATF F 5400.4.

(b) Before the distribution of explosive materials to a nonlicensee or nonpermittee who is a resident of the State in which the licensee or permittee maintains his business premises, or to a nonlicensee or nonpermittee who is not a resident of the State in which the licensee or permittee maintains his business premises and is acquiring explosive materials under § 55.105(c), the licensee or permittee distributing the explosive materials shall obtain an executed ATF F 5400.4 from the distributee which contains all of the information required on the form and by the regulations in this part.

(c) Completed ATF F 5400.4 is to be retained by the licensee or permittee as part of his permanent records in accordance with paragraph (d) of this section.

(d) Each ATF F 5400.4 is retained in numerical (by transaction serial number) order commencing with "1" and continuing in regular sequence. When the numbering of any series reaches "1,000,000," the licensee or permittee may recommence the series. The recommenced series is to be given an alphabetical prefix or suffix. Where there is a

change in proprietorship, or in the individual, firm, corporate name or trade name, the series in use at the time of the change may be continued.

(e) The requirements of this section are in addition to any other recordkeeping requirement contained in this part.

(f) A licensee or permittee may obtain, upon request, a supply of ATF F 5400.4 from the Director. [T.D. ATF-87, 46 FR 40384, Aug. 7, 1981, as amended by T.D. ATF-93, 46 FR 50787, Oct. 15, 1981; T.D. ATF-172, 49 FR 14941, April 16, 1984]

§ 55.127 Daily summary of magazine transactions.

In taking the inventory required by §§ 55.122, 55.123, 55.124, and 55.125, a licensee or permittee shall enter the inventory in a record of daily summary transactions to be kept at each magazine of an approved storage facility; however, these records may be kept at one central location on the business premises if separate records of daily transactions are kept for each magazine. Not later than the close of the next business day, each licensee and permittee shall record by manufacturer's name or brand name, the total quantity received in and removed from each magazine during the day, and the total remaining on hand at the end of the day. Quantity entries for display fireworks may be expressed as the number and size of individual display fireworks in a finished state or as the number of packaged display segments or packaged displays. Information as to the number and size of display fireworks contained in any one packaged display segment or packaged display shall be provided to any ATF officer on request. Any discrepancy which might indicate a theft or loss of explosive materials is to be reported in accordance with § 55.30.

[T.D. ATF-293, 55 FR 3722, Feb. 5, 1990; T.D. ATF-400, 63 FR 44999, 45003, Aug. 24, 1998]

§ 55.128 Discontinuance of business.

Where an explosive materials business or operations is discontinued and succeeded by a new licensee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business or operations is absolute, the records required by this subpart shall be delivered within 30 days following the business or operations discontinuance to any ATF office located in the region in which the business was located, or to the ATF Firearms Out-of-Business Records Center, 3361F 75th Avenue, Landover, Maryland 20785. Where State law or local ordinance requires the delivery of records to other responsible authority, the Chief, Firearms and Explosives Licensing Center may arrange for the delivery of the records required by this subpart to such authority. (See also, § 55.61.)

[T.D. ATF-290, 54 FR 53054, Dec. 27, 1989]

§ 55.129 Exportation.

Exportation of explosive materials is to be in accordance with the applicable provisions of section 38 of the Arms Export Control Act (22 U.S.C. 2778) and implementing regulations. However, a licensed importer, licensed manufacturer, or licensed dealer exporting explosive materials shall maintain records showing the manufacture or acquisition of explosive materials as required by this part and records showing the quantity, the manufacturer's name or brand name of explosive materials, the name and address of the foreign consignee of the explosive materials, and the date the explosive materials were exported. See § 55.180 for regulations concerning the exportation of plastic explosives.

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981; T.D. ATF-387, 62 FR 8374, 8376, Feb. 25, 1997]

§ 55.130 [Reserved]

[T.D. ATF-87, 46 FR 40384, Aug. 7, 1981]